

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 14532 of 2007(E)

OS.624/2006 of PRL.M.C.,ERNAKULAM

PETITIONERS:

1. C.P.RAVEENDRAN NAIR,SREE LAKSHMI MEDICAL
MANAKADU,THIRUVANANTHAPURAM.
2. K.VIJAYAKUMARAN NAIR, SOBHA MEDICALS,
T.C.NO.18/476,PUNNAKKA MUGHAL,
RESAMODU P.O.,THIRUVANANTHAPURAM.
3. GOWRI SANKARAN V, GURUVAYOORAPPAN
AGENCY,TC.NO.29/1313-1,AMBADI,
CHEMPAKASSERI ROAD,THIRUVANANTHAPURAM.
4. S.MOHANDAS,THANKAM MEDICALS,
KARAMANA,THIRUVANANTHAPURAM.
5. M.ANILKUMAR, INDIAN DRUGS HOUSE,
THYCAUD,THIRUVANANTHAPURAM.

BY ADV. SRI.BEPIN VIJAYAN

RESPONDENTS:

1. K.SURESH KUMAR,PROPRIETOR,
KARUNA MEDICALS,OORUTTAMABALAM,
THIRUVANANTHAPURAM.
2. ALL KERALA CHEMISTS & DRUGGISTS ASSOCIATION,
CHEMISTS BHAVAN, CHAVARA CENTRE ROAD,
KOCHI-16, REPRESENTED BY ITS GENERAL
SECRETARY.
3. ALL KERALA CHEMISTS & DRUGGISTS ASSOCIATION,
THIRUVANANTHAPURAM DISTRICT UNIT,
REPRESENTED BY ITS SECRETARY.

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**4. V.AJITH KUMAR, PRIYADARSHINI DRUGS
AGENCIES,NEMOM,THIRUVANANTHAPURAM.**

**BY ADVS. DR.P.S.KRISHNA PILLAI --- R1
SRI.R.GOPAN --- R4
SRI.M.B.PRAJITH
SRI.ANIL S.RAJ -- R3**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE MEMORANDUM OF ASSOCIATION CONTAINING THE BY-LAWS OF THE R2.

EXT.P2. COPY OF THE ORDER DT. 27/6/06 BY THE PRINCIPAL MUNSIFF'S COURT IN IA NO. 4488/2006 IN OS NO. 624/2006.

EXT.P3. COPY OF THE ORDER DT. 13/4/2007 IN IA NO. 2826/2007 IN OS NO. 624/2006 BY THE PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

RESPONDENT'S EXHIBITS

NIL.

True copy

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M.N. KRISHNAN, J.
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W.P.C. NO. 14532 OF 2007
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Dated this the 30th day of October, 2007.

J U D G M E N T

This writ petition is filed challenging Ext.P3 order. Ext.P3 order is one passed in I.A.2826/07. It was an application filed by the additional 4th defendant for the purpose of issuance of a Commission. Before the the Court below along with the application he filed a work memo incorporating the matters to be done by the Commissioner. The Court by Ext.P3 order dated 13th April, 2007 allowed the prayer in part and directed the Commissioner to report the matter made mentioned of in Sl.Nos. 1 to 3 in the work memo. It is against that decision the present writ petition is filed.

2. The main grievance of the counsel for the writ petitioner is that when the application was filed it was posted to 5.6.07. But it was advanced and disposed of on 13.4.07 without giving him an opportunity to file his objections. It is

also to be mentioned that there was an interim application filed by the plaintiff in the suit as I.A.4488/06 where the prayer is to issue an interim prohibitory injunction restraining the defendants, their men and agents from conducting any election to the sub units of the 2nd respondent as well as the District committee to the 2nd respondent on the basis of the present list of members and without revising the electoral role of eligible members. So the plaintiff is also equally dissatisfied with the existing electoral role and the Court by a considered order dated 27.6.06 allowed the application and I am told that the it had been confirmed by the High Court. So as things stand today an election is a must and for conducting a proper election a revised correct voter's list is necessary and therefore the preparation of the same is necessary with the co-operation of all concerned. Therefore, I direct the Commissioner who is appointed by the Court below to prepare the voter's list in accordance with the rules and after hearing the objections if any, raised by all concerned, then along with the objections, if any, prepare a

report with the draft voter's list, submit it to the Court and the Court after hearing all the parties concerned finalize the final voter's list which will be necessary for the conduct of the election.

3. So far as the election process and date is concerned that can be thought of only after finalizing the final voter's list and the same also be done by the Court after hearing all concerned taking into consideration the conveniences of all.

4. So far as the second point is concerned, that is, the prayer regarding the formation of sub units the learned counsel for the writ petitioner submits before me that it is against the provisions of the bylaw. Since the plaintiff has not been heard on the matter I feel the Court below shall rehear the matter after giving an opportunity to all concerned and decide it in accordance with law.

5. With these observations this writ petition is disposed of and the Commissioner with the proper direction of the Court be directed to prepare the voter's list at the

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earliest and not later than a period of two months from today. The parties are directed to appear before the Court below on 10.11.07. Meanwhile the Registry is also directed to transmit the records of the case to the Court below for further proceeding of the matter.

M.N. KRISHNAN, JUDGE.

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